

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOSHUA PAUL CALHOUN §
v. § CIVIL ACTION NO. 6:11cv4
OFFICER K. ANDERSON, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ORDER OF ADMINISTRATIVE CLOSING

The Plaintiff Joshua Calhoun, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Calhoun complains of incidents which took place in the Henderson County Jail in Athens, Texas. At the time that he filed his lawsuit, he was confined in the United States Penitentiary in Coleman, Florida, although he was subsequently transferred on a state writ to Westminster, Maryland.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be administratively closed pending Calhoun's return to the territorial jurisdiction of the Eastern District of Texas. The Magistrate Judge observed that were a hearing to be scheduled, the State of Maryland would be responsible for transporting him to the Eastern District of Texas, which would pose a significant and unjustifiable expense to that State. Thus, the Magistrate Judge recommended that the case be stayed until such time as Calhoun was in a position to come or be brought to the Eastern District of Texas. Such a procedure would stop the statute of limitations and so Calhoun would be able to prosecute his lawsuit at such time as it is feasible for him to do so. *See*

United States v. \$64,000.00 in U.S. Currency, 722 F.2d 239, 246 (5th Cir. 1984); Johnson v. State of Texas, 878 F.2d 904, 906 (5th Cir. 1989).

Calhoun filed a response to the Magistrate Judge's Report on March 21, 2011. In this response, Calhoun does not express any objection to the Magistrate Judge's recommendation, but expresses concern that the defendants in his case "would use any excuse to disregard any evidence that may be needed." As a result, he asks that "a hold be put on any and everything including key written documents from Jail Standards Texas" and forwarded copies of documents from the Attorney General for the State of Texas as well as the Texas Rangers. Because no service has been issued in this case, such a hold cannot be ordered.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report of the Magistrate Judge, and the Plaintiff's response thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that to the extent that the Plaintiff may have objected to the Report of the Magistrate Judge, such objections are without merit. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is ADMINISTRATIVELY CLOSED and placed on an inactive docket for administrative and statistical purposes. This case may be reopened at such time as the Plaintiff is able to come or be brought to court, and notifies the Court that he is ready to proceed and wishes his case reopened. The administrative closing of this case shall not affect the substantive rights of any party thereto. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 12th day of April, 2011.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS".

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE